



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/587,510

05/25/2007

Simon Goldberg

020306-001600US

9952

20350 7590 06/09/2008
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

RAMSEY, JEREMY C

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

06/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/587,510 | Applicant(s) GOLDBERG, SIMON | |
| | Examiner JEREMY C. RAMSEY | Art Unit 3634 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>18 DEC 07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gidley* 5,204,172 in view of *Sudaglass Fiber Technology* (www.sudaglass.com/fabrics.html).

2. In re claim 1, with reference to Figure 1, *Gidley* '172 discloses a fire resistant flexible wall comprising:

- A first surface (13,top) designed to be presented to a fire area.
- A second surface (13,bottom) on the opposite side from the first surface.
- A flexible insulating material layer (10) between a first fiber fabric layer (12,top) and the second surface (13,bottom).

Gidley '172 fails to disclose:

- A basalt fiber fabric layer.

3. *Sudaglass* however discloses that basalt fiber fabrics are suitable for fire-resistant needs. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention to modify the fire resistant wall of *Gidley* '172 to use a basalt fiber fabric instead of a glass fiber fabric since *Sudaglass*

Art Unit: 3634

teaches that it was known in the art to use basalt fiber for its fire resistant properties.

4. In re claims 2, 6-8 and 10, the fire resistant flexible wall of

Gidley/Sudaglass discloses:

- A second fiber fabric layer (12, bottom) between the insulation material and the first surface.
- The basalt fiber fabric is made of yarn, tapes, strips or filaments of basalt. (Sudaglass, line 1)
- Incorporating a flexible continuous metal layer (11).
- The fiber fabric layer (12) and continuous metal layer (11) are joined by means of an adhesive. (Gidley '172, column 1 lines 59-61)
- Wherein the continuous metal layer (11) incorporates a metal or an alloy of metals selected from aluminum, titanium or stainless steel. (Gidley, column 2, lines 39-41)

5. In re claims 3 and 4, the examiner takes Official Notice that it is well known in the art to use stitching as a means to join two fabrics together.

6. In re claim 5, it would further be obvious to make the stitching of claims 3 and 4 to be made of basalt yarn, since Sudaglass teaches it is known in the art to use basalt for its fire resistant properties.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over
Gidley 5,204,172 in view of Sudaglass Fiber Technology

Art Unit: 3634

(www.sudaglass.com/fabrics.html) as applied above and further in view of Smith United States Patent number 5766745.

8. In re claim 9, the fire resistant flexible wall of Gidley/Sudaglass has been discussed above but fails to disclose:

- The adhesive is sodium silicate based.

9. Smith et al '745 discloses:

- The adhesive is sodium silicate based. (column 4, lines 54-56)

10. It would have been obvious to one having ordinary skill in the art to use a sodium silicate based adhesive as taught by Smith et al '745 since it is known for its fire resistant properties and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weber 4,500,593, Lamarca, II et al 5,100,724, Tolbert 5,091,243, Miska 7,105,234, Tompkins et al 6,670,291, Ellis et al 5,928,971, Paire 5,236,769 and Fingerhut et al 4,583,247.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMY C. RAMSEY whose telephone number is (571)270-3133. The examiner can normally be reached on Monday-Friday 6:30 am-4:00 pm EST.

Art Unit: 3634

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
Unit 3634

/Jeremy C Ramsey/
Examiner, Art Unit 3634